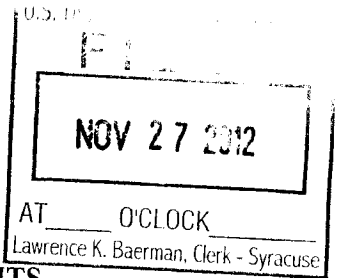


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORKLANCE CARTER 98B0249 Plaintiff(s)

vs.

RACETTE, BEXID, DEPALO, Defendant(s)
BROCKLEY, NORTH, ANDERSON, CHARRON, COLLINSINMATE
CIVIL RIGHTS
COMPLAINT PURSUANT
PURSUANT TO
42 U.S.C. § 1983Case No. 9: 12 CV 1746Plaintiff(s) demand(s) a trial by: JURY ☒ COURT (Select **only** one).

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. Plaintiff: LANCE CARTER 98B0249 PRO SE
Address: FIVE POINTS CORRECTIONAL FACILITY
STATE ROUTE 96, P.O. BOX 119
BOMULUS, NEW YORK 14541

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: BEXID
Official Position: EX-SUPERINTENDENT
Address: GREAT MEADOWS COR FACILITY
P.O. BOX 51
COMSTOCK, NEW YORK 12821-0051

b. Defendant: C.O. M BROCKLEY
Official Position: CORRECTIONS OFFICER
Address: GREAT MEADOW CORR. FACILITY
P.O. BOX 51
COMSTOCK NEW YORK 12821-0051

SEE
ATTACHED

c. Defendant: RACETTE
Official Position: SUPERINTENDENT
Address: GREAT MEADOW CORR. FACILITY
P.O. BOX 51
COMSTOCK NEW YORK 12821-0051

Additional Defendants may be added on a separate sheet of paper.

4. PLACE OF PRESENT CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?

☒ Yes ☐ No

b. If your answer to 4a is YES, did you present the facts relating to your complaint in this grievance program?

☒ Yes ☐ No

If your answer to 4b is YES,

(i) What steps did you take? FILED A GRIEVANCE ON 11-14-11

APPEALED TO C.O.P.C. REVIEWED FINAL DECISION

FROM C.O.P.C. NO ANSWER FROM RACETTE

(ii) What was the final result of your grievance? DENIED

D. K. ANDERSON

CORRECTIONS OFFICER

GREAT MEADOW CORR. FACILITY

P.O. BOX 51

COMSTOCK, NEW YORK 12821-0051

G. J. DePalo

REGISTERED NURSE

GREAT MEADOW CORR. FACILITY

P.O. BOX 51

COMSTOCK, NEW YORK 12821-0051

E. C.S. COLLINS

CORRECTIONS SERGEANT

GREAT MEADOW CORR. FACILITY

P.O. BOX 51

COMSTOCK, NEW YORK 12821-0051

H. A. CHARRON

CORRECTIONS OFFICER

GREAT MEADOW CORR. FACILITY

P.O. BOX 51

COMSTOCK, NEW YORK 12821-0051

F. B. NORTH

CORRECTIONS OFFICER

GREAT MEADOW CORRECTIONAL
FACILITY

COMSTOCK, NEW YORK 12821-0051

If your answer to 4b is NO - why did you choose to not present the facts relating to your complaint in the prison's grievance program? _____

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

X Yes _____ No

If your answer to 4c is YES,

- (i) What steps did you take? Spoke personally to Superintendent Racette, told him of the assault and my injuries in Dec. 1, Nov. 16th, 23, 2011

- (ii) What was the final result regarding your complaint? Absolutely

Ignored and my personal property was removed from my cell.

If your answer to 4c is NO - why did you choose to not complain about the facts relating to your complaint in such prison? _____

5. PREVIOUS LAWSUITS

- a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

X Yes _____ No

- b. If your answer to 5a is YES you must describe any and all lawsuits, currently pending or closed, in the space provided below.

For EACH lawsuit, provide the following information:

- i. Parties to previous lawsuit:

Plaintiff(s): LANCE CARTER 9180233 (ATTICA)

Defendant(s): CARRIECO, MARONSKI, MARRANO SGT. BRECKON

- ii. Court (if federal court, name District; if state court, name County):

WESTERN DISTRICT OF NEW YORK

- iii. Docket number: DON'T REMEMBER

- iv. Name of Judge to whom case was assigned: DON'T REMEMBER

- v. Disposition (dismissed? on appeal? currently pending?): DISMISSED

- vi. Approximate date of filing prior lawsuit: 1992

- vii. Approximate date of disposition: 1994-1995

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary).

ON OCTOBER 22, 2011 IN B-BLOCK STAIRWELL I WAS PHYSICALLY ASSAULTED BY BROCKLEY, NORTH, ANDERSON, C.S. COLLINS AND CHAPMAN, FOR MORE THAN 40 MINUTES. I SUSTAINED 4 BROKEN RIBS, A COLLAPSED LUNG, MULTIPLE STITCHES, WIDE-SPREAD CONTUSIONS, MULTIPLE LACERATIONS, EIGHT DAYS HOSPITALIZATION. SUPERINTENDENT BEXIO AND RACETTE THROUGH THEIR FAILURE TO ACT, METHODS OF SHIELDING STAFF ASSAULT THROUGH ADMINISTRATIVE MANIPULATION AND ABUSE OF POWER AND FAILURE TO EMPLOY ONLY MECHANICAL MEANS OF SUPERVISION IN ORDER TO CURE AND CONTROL THE BEHAVIOR OF THE STAFF, HAVE CREATED AND ALLOWED TO CONTINUE AN UNSAFE AND DANGEROUS PRISON ENVIRONMENT AND AS A DIRECT RESULT PLAINTIFF WAS FREQUENTLY ASSAULTED BY STAFF FROM 5:10 PM TO 5:58 PM.

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

PERSONAL ASSAULT, EXCESSIVE FORCE, SERIOUS PHYSICAL
INJURY. CONSTITUTIONAL EIGHTH AMENDMENT VIOLATION BY
B. NORTH, M. BROCKLEY, CHARRON, ANDERSON, C.S. COLLINS

SECOND CAUSE OF ACTION

FAILURE TO PROTECT, DELIBERATE INDIFFERENCE, SUPERVISORY
LIABILITY CONSTITUTIONAL EIGHTH AND FOURTEENTH AMEND-
MENT VIOLATIONS BY SUPERINTENDENT BALETTE AND BEZID
AND SERGEANT C.S. COLLINS

THIRD CAUSE OF ACTION

MEDICAL MALPRACTICE, DELIBERATE INDIFFERENCE
CONSTITUTIONAL EIGHTH AND FOURTEENTH AMENDMENT
VIOLATION BY J. DOPLIO.

8. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

INJUNCTIVE: THAT GREAT MENDOTA BE ORDERED TO PLACE SECURITY
CAMERAS ALL THROUGHOUT THE PRISON. \$120,000.00 FROM EACH DEFENDENT
AS PUNITIVE DAMAGES. \$30,000 PUNITIVE DAMAGES FROM RACETTE
BEZIO, CHACEON, C.S. COLLINS, M. BROCKLEY, B. NORTH, K. ANDERSON

I declare under penalty of perjury that the foregoing is true and correct.

DATED: SEPT. 19, 2012

Lance Carter 9830249 AD SE.

Signature of Plaintiff(s)
(all Plaintiffs must sign)

02/2010

ii. Court (if federal court, name District; if state court, name County):

WESTERN DISTRICT OF NEW YORK

iii. Docket number: DON'T REMEMBER

iv. Name of Judge to whom case was assigned: DON'T REMEMBER

v. Disposition (dismissed? on appeal? currently pending?): DISMISSED

vi. Approximate date of filing prior lawsuit: 1992

vii. Approximate date of disposition: 1994-95

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary).

ON OCTOBER 22, 2011 IN B-BLOCK STAIRWELL I WAS
PHYSICALLY ASSAULTED BY BEDCKLEY, NORTH, ANDERSON
C.S COLLINS AND CURRAN, FOR MORE THAN 40 MINUTES
I SUSTAINED 4 BROKEN RIBS, A COLLAPSED LEFT LUNG
3 STITCHES IN MY RIGHT HAND AND 3 STITCHES ON THE
RIGHT SIDE OF MY HEAD. I WAS HOSPITALIZED IN ALBANY
MEDICAL CENTER FOR 8 DAYS WITH A CHEST TUBE PLACEMENT,
TUNT HAD TO BE PLACED TWICE. SUBSTANTIAL PAIN
PERMANENT INJURY, MENTAL STRESS, SUBSEQUENT
WEIGHT LOSS OF 31 LBS. LOSS OF MOBILITY FOR MONTHS.
ALL FORCE BEING DELIBERATE AND MILICIOUS FOR THE
SOLE PURPOSE OF INJURING AND DISABLING PLAINTIFF

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

PERSONAL ASSAULT. USE OF EXCESSIVE FORCE
VIOLATION OF CONSTITUTIONAL EIGHTH AMENDMENT
by Noeth, Beckley, Anderson, C.B. Collins and
Chapman.

SECOND CAUSE OF ACTION

FAILURE TO PROTECT. (Deliberate Indifference)
FAILURE TO INVESTIGATE. SUPERVISORY LIABILITY
FAILURE TO PLACE MECHANICAL SUPERVISION DUE TO DEFIANCE
VIOLATION OF CONSTITUTIONAL 8TH AND 14TH AMENDMENT
by SUPERINTENDENT BRETTE, BEZIO AND C.B. COLLINS

THIRD CAUSE OF ACTION

MEDICAL MALPRACTICE. CREATION OF FALSE AND MISLEADING
MEDICAL REPORTS MINIMIZING PLAINTIFFS INJURIES FOR THE
SOLE PURPOSE OF SHIELDING DEFENDANTS IN THE FIRST CAUSE
OF LIABILITY CONCERNING THEIR USE OF EXCESSIVE FORCE.
VIOLATION OF CONSTITUTIONAL AMENDMENT 14 DUE PROCESS
By T. DePaolo

8. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

INJUNCTIVE: THAT GREAT MARIANA BE ORDERED TO PLACE SECURITY
CAMERAS IN ALL THE STAIRWELLS; \$120,000 FROM EACH DEFENDANT
AS PUNITIVE DAMAGES. COMPENSATORY DAMAGES IN THE
AMOUNT OF \$30,000 FROM BACOTTE, NORTH, BROCKLEY, ANDERSON
C.S. COLLINS & CHARCON. DEPAID

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Sept. 19, 2012

James Carter Pro Se

Signature of Plaintiff(s)
(all Plaintiffs must sign)

02/2010

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT NEW YORK

LANCE CARTER 9880249
PLAINTIFF PRO SE

- AGAINST -

CORRECTIONS OFFICERS, BEDCKLEY
B. NORTH, K. ANDERSON, A. CHARRON.
SERGEANT C.S. COLLINS. SUPERINTENDENT
BACETTE AND BEZIO. All in their indi-
vidual CAPACITIES

— CV —

Civil Complaint

1. ON OCTOBER 22, 2011 I WAS BEING ESCORTED TO THE INFIRMARY BY M. BEDCKLEY. UPON RETURNING TO B-BLOCK AND AT THE ARRIVAL TO THE SECOND FLOOR landing, M. BEDCKLEY STRUCK ME FROM BEHIND WITH HIS BATON CONNECTING ON THE RIGHT SIDE OF MY HEAD. THE BLOW PROPELLED ME PAST THE ENTRANCE OF 3-COMPANY. PLAINTIFF TURNED TO FIGHT BACK AND WAS IMMEDIATELY GRABBED FROM BEHIND BY B. NORTH. NORTH SLAMMED MY FACE INTO THE WALL AND PUNCHED ME IN THE FACE SEVERAL TIMES. NORTH HELD ME IN PLACE WHILE M. BEDCKLEY KICKED

2. PLAINTIFF IN THE Ribs AS B. NORTH held him in place until PLAINTIFF PASSED OUT. BOTH DEFENDANTS CONTINUED TO BEAT PLAINTIFF BY KICKING AND STAMPING HIM. PLAINTIFF CAME TOO A SECOND TIME STILL BEING BEATEN BY DEFENDANTS WHO WERE YELLING "STOP RESISTING LATER". PLAINTIFF PASSED OUT AGAIN. WHEN PLAINTIFF CAME TOO AGAIN HE WAS LYING IN BETWEEN THE TWO STAIR CASES ON THE FIRST FLOOR UNCUPTED. C.S. COLLINS, SUPERVISOR, K. ANDERSON AND A. CHARRON, CAMERA MAN, WERE ALL THERE WITH BRIDGLEY AND NORTH.

3. THERE IS NO RECORD AS TO WHEN THE CAMERA WAS PRESENT AND TURNED ON OR WHEN CHARRON SHOWED UP OR WHAT CHARRON SAID WHEN HE GOT THERE. CHARRON did NOT WRITE A REPORT. ALL THAT IS KNOWN IS THAT he showed up ON THE FIRST FLOOR NOT THE SECOND where the incident began. As NORTH'S REPORT INDICATES, PLAINTIFF WAS CUPTED ON THE SECOND FLOOR landing AND his REPORT did NOT MENTION ANYTHING ABOUT KICKING ANDERSON BECAUSE ANDERSON WAS NEVER NOR EVER RESPONDED TO THE SECOND FLOOR.

4. K. ANDERSON is hereby accused by the plaintiff of using excessive force upon plaintiff contributing to and causing the plaintiff's multiple rib fracture, widespread contusions and multiple lacerations a punctured and collapsed lung and stitches by repeated kicking and stomping the plaintiff with booted feet in the chest and head, in violation of the plaintiff's 8th Amendment to the U.S. Constitution outside the scope of her official duties, and in her individual and personal capacity
5. M. BROCKLEY is hereby accused by the plaintiff of using excessive and brutal force upon the plaintiff causing multiple rib fractures and punctured lung by repeatedly kicking and stomping with tremendous force plaintiff's chest and head, causing plaintiff to receive widespread contusions and multiple lacerations and stitches in violation of plaintiff's 8th Amendment to the U.S. Constitution outside the scope of his official duties, and in his individual capacity.

6. B. North is hereby Accused by the plaintiff of using Excessive Force upon the plaintiff and causing plaintiff's Multiple Rib Fracture, punctured lung that collapsed, causing and contributing along with M. Brackley, K. Anderson, C.S. Collins and A. Charron to the wide spread contusions, Multiple lacerations that required 6 stitches and hospitalization, by slamming plaintiff's face and head into the wall, repeatedly punching plaintiff in the face, repeatedly kicking and stomping plaintiff in the chest and head in violation of plaintiff's 8th Amendment to the Constitution of the United States. Having done all this outside the scope of his duties. This being done in his individual and personal capacity.
7. T. Depold is hereby Accused by the plaintiff of Medical Malpractice in that he knowingly and willingly with intelligent thought Filed False Medical Reports concerning the extent of plaintiff's injuries and condition in order to help shield Anderson, Brackley, North, Collins and Charron from liability, violating plaintiff's Bill of Rights by supply false information deliberately indifferent to the Medical well being of plaintiff.

8. Depalo being Deliberately Indifferent to plaintiff's potential inability to obtain future medical assistance stemming from the true nature of his injuries, precluding the plaintiff assisting in his own medical treatment in violation of the Bill of Rights and plaintiff's 8th Amendment to the U.S. Constitution, doing so outside the scope of his professional duties. This also being done in his individual capacity.
9. Superintendent Racette, whom was the superintendent on and after October 22, 2011 is hereby accused by the plaintiff of deliberate indifference, failure to protect, supervisory liability. Racette knew or should have known that his failure to place mechanical supervision in the stairwells of A, B, C, D, & E blocks, infringed the constitutional rights of the plaintiff to reasonable safety. Racette knew of the serious security problems surrounding official assault on inmates through official reports, inmate grievances internal investigations from outside sources, inmates complaints and lawsuits in such amounts and so many different inmates in a years time that it would be impossible for such ~~long~~ security concerns having escaped his knowledge.

10. On April 15, 2011 Gary Buckett ID#2339 testified against officers of Comstock after officers severely beat inmates in the property room. That same year inmate G. Garrison ID#3517 was severely beaten by Comstock officers in relation to that hearing. In 2010 an outside investigation was conducted into the deaths of eight inmates. Inmate P. DeBiasio in August 2009 sustained a busted head which required 15 stitches. Inmate Scott Porter 93A8913 was physically assaulted in Comstock and thrown down a flight of stairs in 2007 breaking his collar bone and lost teeth.
11. Directly related to staff assault was the lack of mechanical supervision and the lack of the most elementary procedures to minimize the likelihood of staff assault on inmates. Superintendent Arnette had every obligation to implement those procedures through his authority. Various indices, when considered in combination should make it readily discernable to any prudent administrator that staff assault is occurring so regularly that extra security measures should be taken to ensure that said conduct by staff discontinues.

12. RACETTE'S FAILURE TO PROMULGATE AND ADHERE TO THE MOST FUNDAMENTARY DEFERENCE PROCEDURES AFTER HAVING FULL AND CONSTRUCTIVE KNOWLEDGE OF STAFF ASSAULT CONSTITUTES DELIBERATE INDIFFERENCE TO INMATE SAFETY AND FAILURE TO PROTECT. NO PROCESS OR PROCEDURES WERE UTILIZED BY BEZID, RACETTE, OR ANY OTHER SUPERINTENDENT BEFORE THEM FOR 10 YEARS, TO ENSURE FULL AND FAIR METHODS FOR INVESTIGATIONS OF SUCH STAFF ASSAULT. STAFF WERE FULLY SHIELDED FROM LIABILITY BY RACETTE AND BEZID AND THROUGH ADMINISTRATIVE MANIPULATION OF ALL OTHER EXECUTIVE STAFF AUTHORITATIVE POSITIONS.
13. THIS CREATED AN ATMOSPHERE WHERE ASSAULTIVE STAFF WOULD CONTINUE TO BE HOSTILE AND ASSAULTIVE TOWARDS INMATES AND NEVER RUN THE RISK OF DETECTION. THIS IS THE EXACT PRISON ENVIRONMENT CREATED BY SUPERINTENDENTS BEZID AND RACETTE THAT ALLOWED BROOKLEY NORTH, ANDERSON, C.S. COLLINS, A CHARRON TO ASSAULT ME FOR 40 PLUS MINUTES WITHOUT DETECTION. THE EXPRESSION OF VIOLENCE AND HOSTILITY BY THE STAFF OF GREAT MENDON WAS SO PIERCING THAT IT INSTILLED FEAR INTO ANY WHO WOULD TAKE A STANCE AGAINST THEIR VIOLENCE. THEY WOULD CERTAINLY HAVE SECOND THOUGHTS ABOUT DOING SO.

14. As a direct result of Superintendent's Bezio and Racette's deliberate indifference towards the safety of inmates and their failure to implement any deterrence procedures to curb and control the behaviors of the Great Meadow staff assault against inmates, plaintiff Lance Carter was assaulted by Great Meadow staff, sustained serious injury requiring eight days hospitalization. Plaintiff was viciously assaulted from 5:10 PM to 5:58 PM by 5 Great Meadow Correctional staff. Superintendent Bezio and Racette both refused to seek assistance from the outside. They both were willing to turn a blind eye at the multitude of injured inmates past and present.
15. They both ignored the multitude of inmate grievance complaints and lawsuits and defied the extreme need for the placement of security cameras all throughout the persons environment. Both superintendents ignored criminal justice remedies to which they had access and all this neglect served to nurture a dangerous and unsafe environment solely for the inmates.

16. MINIMAL FORCE AND body holds ARE NOT GOING TO CAUSE MULTIPLE Rib FRACTURE, collapsed lung, WIDE SPREAD CONTUSIONS AND MULTIPLE LACERATIONS REQUIRING STITCHES. BUT IT IS CLEAR THAT PLAINTIFF DID SUSTAINED SUCH INJURIES. WHAT IS NOT CLEAR IS HOW PLAINTIFF SUSTAINED SUCH INJURIES THAT INDICATE THE CONDITION OF BEING BEATEN FOR A SUSTAINED AMOUNT OF TIME AS A TIMEFRAME OF FROM 5:10 PM TO 5:58 PM WOULD INDICATE.
17. WHILE ON THE FIRST FLOOR landing PLAINTIFF WAS STILL BEING STOMPED AND KICKED BY BROCKLEY AND NORTON WITH THE ASSISTANCE OF K. ANDERSON AND C.S. COLLINS AND LAMARON. ACCORDING TO K ANDERSON'S REPORT IT WAS THERE ON THE FIRST FLOOR THAT PLAINTIFF WAS RESTRAINED WITH HER HELP AND PLAINTIFF ALLEGEDLY KICKED ANDERSON IN THE FACE AND SUBSEQUENTLY LIFTED ALL WHILE C.S. COLLINS AND LAMARON WAS THERE.

18. CHARRON, COLLINS NOR ANDERSON WAS THERE WHEN NORTH PUT THE HANDCUFFS ON WHILE ON THE SECOND FLOOR landing off of B-3 where the incident according to North's Report, ended with him applying the cuffs to plaintiff. So if according to the Reports all defendants responded at approximately 5:10 PM THEN BROCKLEY'S AND NORTH'S Report should have mentioned that there were several officers present.

19. INSTEAD NORTH'S Report STATED "ANOTHER OFFICER ASSISTED." Obviously THAT OFFICER WAS OCCUPIED WITH MY HANDS NOT FEET AND NORTH'S Report MAKES NO MENTION OF PLAINTIFF KICKING THAT OFFICER, SO CONSIDERING THESE FACTS IT IS SAFE TO CONCLUDE THAT THE "OTHER OFFICER" WAS NOT K. ANDERSON. So ANDERSON WAS 30 FEET AWAY BUT NEVER RESPONDED TO THE SECOND FLOOR? So if PLAINTIFF WAS ACTUALLY CUFFED SOON AFTER HE ALLEGEDLY ATTACKED BROCKLEY, ("UPON THE ENTRANCE TO B-3 COMPANY"), AS HIS Report STATES, HOW IS IT THAT K. ANDERSON WITNESSED THE CUFFS BEING APPLIED TO PLAINTIFF?

20. According to Anderson's Report it was upon her arrival "ON" B-3 that she responded but gave no time. "ON B-3" indicates she responded to the second floor on which she never arrived. "B-3 STAIRWELL" would indicate either the first or second floor. So without her being specific there is no way of anyone knowing where she responded. In ~~an~~ Anderson's disciplinary Report she said she responded approximately 5:10pm.

21. C.S. Collins in his Report stated that he responded approximately 5:10pm. His entire Report indicates that he was not present during any of the assault on me by Anderson, North, Brockley and Charron by stating in that Report to Superintendent Palette, that the entire incident was "Relayed" to him, giving the impression that he was not there until Plaintiff was restrained. In other words C.S. Collins was not there until after I was assaulted. The incident, according to all Reports, took place at approximately 5:10pm, (within 100' + proximus, nearest). Plaintiff arrived at the infirmary at 5:58pm.

So it is clear that C.S. Collins was there in B-3 STAIRWELL at some point soon after 5:10pm.

22. C.S. Collins did not say where specifically he responded in B-3 stairwell. He responded approximately 5:10 PM. The same time plaintiff allegedly attacked Brockley upon entering B-3 company on the second floor and the same time B. North responded and attacked plaintiff from behind and slammed plaintiff's face into a wall and subsequently cuffed on that second floor. So plaintiff was restrained while on the second floor.

23. K. Anderson, A. Chareon Nor did C.S. Collins respond to the second floor. No report stated that at any time I moved to the first floor. So if the incident occurred on the second floor and plaintiff was restrained and cuffed on the second floor by B. North and M. Brockley how was Anderson involved with B. North restraining the plaintiff when she never responded to the second floor nor did North's report state that plaintiff kicked the "other" officer in the forearms nor was it reported that that "other" officer was ~~not~~ preoccupied with anything other than the plaintiff's hands.

24. C.S. Collins did Not Respond At 5:20pm he did Not Respond to the infirmary. C.S. At 5:40 pm, C.S. Collins said 5:10pm And he Claims Not to know anything but what was "Relayed" to him from involved staff about the incident but he Responded at the same time all other staff Reported that they Responded but to avoid any liability C.S. Collins indicates in his Report that he was Not present and therefore had to be told what went on by other staff.

25. After the second or third time plaintiff passed out and came to he was on the first floor lying between the adjacent stairs leading up to 3rd Company in B-block. C.S. Collins was there along with A. Chaceon and K. Anderson, B. North and H. Beckley and all including C.S. Collins were kicking the plaintiff about the legs, chest, genitals and head. Plaintiff does Not know when C.S. Collins Arrived but like he Reported he was there at Approximately 5:10pm. Plaintiff does Not know how long he was on the second floor being beaten Nor does plaintiff Remember ever having Moved to the first floor

26. It is clear that plaintiff received multiple rib fractures widespread lacerations and contusions over his face, head and hand, six stitches a punctured and collapsed left lung and 8 days hospitalization. What is also clear is that such injuries didn't come from minimal force or any kind of simple body holds, as reported and since no one knows who caused them and all the defendants deny that any one of them caused plaintiff's injuries as if they magically appeared after the fact, all defendants are and should be held liable for depriving the plaintiff of his constitutional rights while acting under color of state law, beyond the scope of their duties and in their individual personal capacities.

27. Unless all the defendants, in light of all the lies and contradiction apparent from their reports, can logically account for a full 48 minutes from 5:10 PM. to 5:58 PM., can reasonably explain plaintiff's whereabouts in that time and how plaintiff was injured, then none of the defendants have any kind of immunity from this proceeding.

28. Plaintiff has no idea when A. Charron arrived at the scene of the incident. Charron did not write a report or even co-sign his concurrence on a report made by another as directive 4932 affirmatively requires officers to do. Since Charron has failed to follow his own rules and regulations plaintiff should not be obligated to explain away exactly in what capacity Charron was present. Charron was there and when plaintiff came to at that time on the first floor he was being pummeled by many booted feet.
29. Being on the floor surrounded by five officers and being dated, confused and disoriented from the first beating by North and Beckley, not being able to tell this court how plaintiff got from the second floor to the first floor should tell this court that plaintiff is not able to say for sure in what capacity Charron played in my assault. Officer Charron should be made to answer to and explain away what part he played only after discovery since he left no trail to track his movements and explain his behavior, should he be dismissed if such action is warranted concerning him.

30. WAS PLAINTIFF RESTRAINED AND LIFTED ON THE SECOND FLOOR AS SOON THEREAFTER PLAINTIFF ALLEGEDLY ATTACKED BROCKLEY "UPON THE ENTRANCE TO B-3" AS BROCKLEY REPORTED OR DID PLAINTIFF GET RESTRAINED AND LIFTED ON THE FIRST FLOOR IN THE PRESENCE OF C.S. COLLINS, CHADRON AND ANDERSON SOON AFTER PLAINTIFF KICKED ANDERSON?
31. PLAINTIFF GOT TO THE INFIRMARY AT 5:58 PM AND WAS ADMITTED FOR 5 DAYS. PLAINTIFF WAS THEN MOVED TO THE OUTSIDE HOSPITAL AFTER IT WAS DISCOVERED THAT PLAINTIFF HAD MULTIPLE RIB FRACTURES AND A COLLAPSED LEFT LUNG, AND WAS ADMITTED TO THE OUTSIDE HOSPITAL FOR 8 DAYS.
32. ALL OF PLAINTIFF'S INJURIES DERIVED FROM BRUTAL/EXCESSIVE AND SUBSTANTIAL FORCE IN VIOLATION OF THE 8TH AMENDMENT TO THE CONSTITUTION. PLAINTIFF EXPERIENCED SUBSTANTIAL PAIN BEFORE DURING AND AFTER THE HOSPITALIZATION AND FOR 3 MONTHS THEREAFTER EXPERIENCED LITTLE TO NO MOBILITY.

33. All Force used by C.S. Collins, H. Anderson, B. North, M. Brockley, A. Charron was applied maliciously with the sole intent and purpose of harming and disabling plaintiff.
34. Upon information and belief, Officer Charron is hereby being accused by the plaintiff of using excessive force upon plaintiff in violation of the plaintiff's 8th Amendment to the U.S. Constitution.
35. Sergeant C.S. Collins is hereby accused of supervisory liability "Failure to protect the plaintiff in that plaintiff was attacked in front of Collins but Collins did nothing to stop or prevent it. Making false reports to cover up the fact that he knowingly let injurious harm come to plaintiff and did nothing to prevent it. Insubordination and the use of excessive force upon plaintiff in violation of plaintiff's 14th and 8th Amendment to the U.S. Constitution. Doing so in his individual capacity and outside the scope of his duties.

36. RACETTE KNEW ABOUT THE HOSTILE, VOLUNTIVE AND ASSAULTIVE NATURE OF HIS OFFICERS LONG STANDING ABUSE AND EXCESSIVE USE OF FORCE IN JUST THE TWO YEARS FROM 2010 TO 2012. IF RACETTE HAD ACTED ON THE NATURE OF HIS OFFICER'S BEHAVIOR FROM THE ~~AND~~ 2010 INVESTIGATION ABOUT THE DEATH OF EIGHT INMATES. THE ATTACK ON INMATE GARRISON IN APRIL 2011 THE NUMEROUS OTHER COMPLAINTS OF ASSAULTS BY OFFICERS THAT YEAR, PLAINTIFF COULD HAVE BEEN PROTECTED.
37. PLAINTIFF WAS THERE AND HOLDS NO DETAILS BUT THERE WERE AT LEAST 6 OFFICER ASSAULTS ON INMATES BETWEEN AUGUST ~~AND~~ 2010 AND AUGUST 2011 AND RACETTE WAS THERE AT LEAST HALF THAT YEAR. PLAINTIFF'S ASSAULT AND SUBSEQUENT INJURY COULD HAVE BEEN AVOIDED IF RACETTE DID NOT STAND BY IDOL AND IGNORE THE OBVIOUS NEED TO TAKE ACTION THAT COULD PROTECT AGAINST INMATE ABUSE.

38. RABOTTE IS IN VIOLATION OF PLAINTIFFS 14TH DUE PROCESS AND EQUAL PROTECTION CLAUSE AND 8TH AMENDMENT DELIBERATE INDIFFERENCE STANDARD TO THE U.S. CONSTITUTION. FAILING TO FOLLOW HIS OWN RULES AND REGULATIONS AND THIS FAILING TO PROTECT PLAINTIFF. THIS BEING DONE OUTSIDE THE SCOPE OF HIS DUTIES AND IN HIS INDIVIDUAL CAPACITY.

COMPENSATION IS DEMANDED BY THE PLAINTIFF IN THE AMOUNT OF \$1,250,000 DOLLARS ENUMERATED AS FOLLOWS:

1. PUNITIVE DAMAGES IN THE AMOUNT OF \$20,000 DOLLARS FROM EACH INDIVIDUAL DEFENDANT IN HIS OR HER PERSONAL CAPACITY.
2. COMPENSATORY DAMAGES JOINTLY PAID TO THE PLAINTIFF IN AN EXACT AMOUNT EQUIVILANT TO THE ACTUAL COST OF THE ALBANY MEDICAL CENTER HOSPITAL BILL INCURRED BY THE NEW YORK TAX PAYERS AS A DIRECT RESULT OF THE DEFENDANTS ASSAULT AND USE OF EXCESSIVE FORCE AND SUBSEQUENT INJURIES PLAINTIFF SUFFERED ALL INCLUSIVE.

3. MONETARY DAMAGES PAID BY T. Depalo IN THE AMOUNT OF \$100,000 DOLLARS.
4. PUNITIVE DAMAGES PAID BY T. Depalo IN THE AMOUNT OF \$30,000 DOLLARS
5. PUNITIVE DAMAGES THE EQUIVALENT OF EACH OF THE DEFENDANTS INDEMNIFICATION. EACH OFFICER IS INDEMNIFIED FOR NO LESS THAN \$10,000 DOLLARS PROBABLY MORE DEPENDING ON RANK, POSITION AND DURATION OF EMPLOYMENT. IF THE DEFENDENT HOLDS NO INDEMNIFICATION THEN THE EQUIVALENT OF THE INDEMNIFICATION HE OR SHE DID HOLD AT SOME POINT SHALL BE PAID AS A PUNITIVE DAMAGE.

SEPTEMBER 9, 2012

Lance Carter
9580249

NORTHERN DISTRICT NEW YORK
UNITED STATES DISTRICT COURT

LANCE CARTER 98BD249

- AGAINST -

- CV -

BROOKLEY, NORTH, ANDERSON, COLLINS
DEPALO, RACETTE, CHARLTON AND BELL

STATE OF NEW YORK }
COUNTY OF SENECA } ss

AFFIDAVIT OF SERVICE

LANCE CARTER being duly sworn under penalty of perjury deposes and states:

1. I AM THE PLAINTIFF IN THE ABOVE ENTITLED ACTION AND I MAKE THIS AFFIDAVIT IN MY BEHALF.
2. I AM OVER THE AGE OF 18 AND RESIDE IN FIVE POINTS CORRECTIONAL FACILITY STATE ROUTE 94, P.O. BOX 119, ROMULUS N.Y. 14541

3. THAT ON OR AFTER THE NOTED DATE I MAILED AN ORIGINAL AND ON COPY OF THE WITHIN CIVIL COMPLAINT TO:

CLERK OF THE NORTHERN DISTRICT
COURT
ALEXANDER PIENIE Federal Bldg. 3rd Fl.
10 BROAD STREET
LITCOA NEW YORK 13501

ALONG WITH ORIGINAL COPIES OF THE CIVIL COVER SHEET,
APPLICATION TO PROCEED WITHOUT FULL PAYMENT OF FEES,
INMATE AUTHORIZATION FORM AND 6 MONTHLY STATE-
MENTS OF FINANCE, AND APPLICATION FOR ORDER DIRECTING
SERVICE BY U.S. MARSHALL.

SWORN TO BEFORE ME
THIS 12 DAY OF November
2012

[Signature]

NOTARY PUBLIC

ANTHONY REISH, JR.
Notary Public, State of New York
Ontario Co. Reg. 01RE6216973
Commission Expires 2/1/2014